

OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
FOR MONTGOMERY COUNTY

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PETITION OF GILMOURE-BRUNETT, LLC : Case No. S-2781
: OZAH No.
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A hearing in the above-entitled matter was held on June 20, 2011, commencing at 9:45 a.m., at the Council Office Building, Rita Davidson Memorial Hearing Room, 2nd Floor, 100 Maryland Avenue, Rockville, Maryland 20850 before:

Lynn A. Robeson, Hearing Examiner

A P P E A R A N C E S

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ON BEHALF OF THE PETITIONER:

Anne Mead, Esq.	3
Louis Leibowitz, Esq.	8
Craig Kay	22
James Zepp	23

1 P R O C E E D I N G S

2 MS. ROBESON: Good morning. We're on the record
3 this morning with the Petition of Gilmore-Brunette for
4 property located 220 West University Boulevard in the R-60
5 zone. The parties are here today and this is a continuance
6 of a case from a prior hearing.

7 We have, as a preliminary matter, a Motion to
8 Dismiss that was submitted Friday, I believe. Not a Motion
9 to Dismiss, that's my fault. A Motion to Postpone that was
10 submitted Friday on behalf of the Petitioner. So as a
11 preliminary matter, I would like to take that up. Does
12 anyone have any other preliminary matters? Mr. Leibowitz,
13 no?

14 MR. LEIBOWITZ: Other than addressing the Motion
15 to Postpone.

16 MS. ROBESON: Okay. Ms. Mead, do you want to
17 present your motion, why you want a postponement?

18 MS. MEAD: Yes, thank you. For the record, Ann
19 Mead with the Law Firm of Linowes and Blocher for the
20 applicant, Gilmore-Brunette, LLC.

21 Thank you. The Motion to Postpone was also
22 accompanied with a Motion to Amend the Special Exception
23 application which is the bulk of our reason for the Motion
24 to Postpone the case this morning. As the Hearing
25 Examiner's aware, the staff from the Park and Planning

1 Commission submitted comment subsequent to the applicant's
2 case in chief on April 15th, not the five days prior as is
3 typical in the provisions, and when it was submitted, it
4 referred to previous staff report. The applicant requested
5 that the planning staff, since it just referred to the
6 previous staff report, be present at today's hearing for
7 that case. The planning staff took the matter to the
8 Planning Board just as of Thursday. The applicant was at
9 the hearing on Thursday and we did note on the record a
10 willingness to amend the plans with the more specific
11 guidance given by the Planning Board, although we don't
12 necessarily agree with the legal basis for their
13 recommendations. As has been in the past, once we receive
14 such guidance, we are willing to revise the plans.

15 We don't have the Planning Board's comments today
16 in writing, nor do we have staff here to rebut or for the
17 applicant to question them about both their staff report and
18 the Planning Board's decision, which is another reason for
19 the postponement, but the main reason is our Motion to
20 Amend, we feel that it will not make sense to have the
21 opposition put on their case in chief and have extensive
22 cross-examination on a plan that we've already put in the
23 record that we're willing to amend to address, at least the
24 Planning Board's concern, maybe not all of the community's,
25 on the underlying use, but certainly on some of the specific

1 comments. So to have them put on a case in chief on the 94
2 enrollment and the specific building when we are going to
3 come back with perhaps a reduced plan and then they're
4 obviously entitled to have testimony on that. We just feel
5 that it would be repetitive and waste of resources.

6 We did wait for the continued hearing for guidance
7 on this. We have gone three months. These cases, when
8 they're heavily opposed, do tend to be scheduled further.
9 As noted in my motion, I think September would provide
10 adequate time for both the applicant to make the changes to
11 the plan, ideally meet with the community on the proposal
12 regardless of whether they -- we assume they still intend to
13 oppose, and to provide adequate time for comment from both
14 them and the planning staff in advance of the continued
15 hearing.

16 We would limit any testimony on the amended plan
17 to just the amendment portion itself. We feel we've already
18 put on the case in chief as far as the use but then that
19 would be appropriate for the opposition to put on their
20 testimony on the plans as they are revised.

21 Again, we don't think it makes any sense for us to
22 spend time on extensive cross-examination and the
23 presentation of their case if our rebuttal, if evidence is
24 amending the plans and then having to do the same thing over
25 again and paid everyone's resources, as well as create the -

1 - we'd rather not to do cross-examination on a community
2 that we're hoping to work with a little bit on at least --
3 we know they're still probably going to oppose the plans but
4 we'd like at least to see if we can address the Planning
5 Board's comments and their comments on the residential
6 character and scale issue.

7 MS. ROBESON: I did check the website just to see
8 what the Planning Board recommended and I saw that they
9 recommended denial. I don't have the Planning Board. I
10 have the Staff Report but I don't have the Planning Board's,
11 the basis for their recommendation. I don't want to start a
12 whole cross-examination thing but can you summarize what
13 their concerns were? Did they basically adopt Technical
14 Staff's Report?

15 MS. MEAD: They gave guidance as well. We had
16 proffered on the 500 square feet per child issue. We had
17 noted other childcare, daycares, where the Hearing Examiner
18 had recommended a decrease enrollment to start so we had
19 proffered at least starting, although our preference would
20 be to increase, but at least starting at the 76 children to
21 satisfy the 500 square feet. They did say that it was more
22 than the enrollment that they were concerned about, the
23 Planning Staff's recommendations regarding the residential
24 character and scale and that the size of our structure was
25 too large and they gave some specific guidelines as far as

1 what they would expect to see as far as it being consistent
2 with the Sector Plan guidelines.

3 We don't necessarily agree with the legal basis as
4 far as Sector Plan, but again, we've tried to be responsive
5 and we indicated to the Board that we would and we would try
6 and address with the Planning Staff and have them comment on
7 any revised plans.

8 MS. ROBESON: Okay.

9 MS. MEAD: But again, we don't have their written
10 recommendation either which is another reason we would want
11 to postpone because we would want to either have staff here
12 or their written opinion or something as far as whether we
13 legally or have our rebuttal on it as far as the underlying
14 issues and what the planning recommendation was.

15 MS. ROBESON: Okay. And when do you think you
16 would be able to submit revised plans?

17 MS. MEAD: We were hoping for the end of July.
18 Actually, the Childway representatives obviously have to
19 give some input on what goes inside the building before the
20 architect can redesign a smaller building, so we're just
21 hoping that they're going to be in town and going to be able
22 to do that by the end of the -- and have the architect and
23 the planner be able to do that by the end of July, not mid
24 August. We would like to ask the community to be on one of
25 their agendas for the South Four Corners, which I know they

1 don't meet every -- usually they don't meet in August but --

2 MS. ROBESON: Well, we won't --

3 MS. MEAD: -- we would like to allow time for
4 that.

5 MS. ROBESON: I know we don't have a date until
6 October.

7 MS. MEAD: Okay, well then --

8 MS. ROBESON: And our Administrative Assistant is
9 looking at dates. Is there anything else before I go to Mr.
10 Leibowitz?

11 MS. MEAD: No, that's our main presentation of our
12 motion.

13 MS. ROBESON: Okay. Mr. Leibowitz.

14 MR. LEIBOWITZ: Thank you. For the record, I'm
15 Louis Leibowitz on behalf of the South Four Corners
16 Association. The neighborhood is opposing the request for
17 postponement for a number of reasons.

18 This is the second request for a postponement.
19 The first time we did consent to the postponement because
20 the applicant was making amendments to their application.
21 We didn't know what they were. We were told they would be
22 substantial changes and based on the feedback from the
23 Planning Board, which had initially recommended denial.
24 Those changes, those amendments were not substantial and the
25 Planning Board said so on Thursday very explicitly. They

1 were surprised at the unsubstantial nature of the changes.

2 Be that as it may, we went forward two months ago
3 on the amended application. The applicant put on its entire
4 case in chief. We were here for all day, eight hours
5 probably, and we weren't able to finish. We met back. We
6 have eight witnesses here today that have taken time off of
7 work. They've taken time out of their schedules. This has
8 been a significant issue in their lives for more than two
9 years since the applicant first came to the community and
10 suggested that he was thinking about building a daycare
11 center. They have been given feedback to the applicant
12 since that time. He's met four times with various members
13 of the community including two meetings at one of the
14 resident's homes and despite all that, they, in our view at
15 least, haven't really listened to the feedback.

16 They've now gotten feedback twice from the
17 Planning Board. The feedback this past Thursday was a
18 reiteration, in our view, of the feedback that they had
19 gotten back in December. So now it's been six months since
20 the initial feedback and now on the eve of the second day of
21 the hearing, they're here asking for another postponement
22 which will have to be, as appearing, at least until October,
23 maybe later which is four months from now.

24 The community would like a ruling. They'd like an
25 opinion from --

1 MS. ROBESON: I'm sorry. One minute.

2 MR. LEIBOWITZ: Sure.

3 MS. ROBESON: Okay, continue. I'm sorry. This is
4 a note from Technical Staff on this case.

5 MR. LEIBOWITZ: Okay.

6 MS. ROBESON: Just reporting that the Planning
7 Board's report is not in yet but he's going to try to get it
8 out very quickly. So, I'm sorry, continue. I didn't --

9 MR. LEIBOWITZ: No, that's perfectly fine and we
10 appreciate their efforts. One of the bases I heard for the
11 request for the postponement was that Technical Staff
12 couldn't be here today or wasn't going to be here today and
13 I'm sure, as you remember, there was request for Technical
14 Staff to be here. We embrace that request. I guess there
15 were changes because we heard from the Planning Board on
16 Thursday but Technical Staff could have been here if the
17 applicant wanted staff to be here. We didn't have any
18 objection to that. That's not a real basis for asking for a
19 postponement. Certainly, if that's the reason, perhaps we
20 can get somebody here even today.

21 But, the neighborhood's been going through this
22 for over two years now. The application was filed, I don't
23 even remember now. It's been more than six months since we
24 were in front of the Planning Board the first time. It's
25 time for a little bit of resolution. The community would

1 like to hear from the Hearing Examiner. They would like to
2 hear from you and get a report and see where we stand and
3 start to move towards some finality.

4 We're concerned that there will be a third
5 amendment and a fourth amendment and when does this end?

6 MS. ROBESON: Okay. Anything else?

7 MR. LEIBOWITZ: I guess just the last thing is,
8 obviously, if it is postponement, we're going to have to
9 wait another four months and the community doesn't have the
10 resources that the applicant has and so it's a significant
11 strain on the community to be here with counsel
12 repeatedly --

13 MS. ROBESON: I understand. Ms. Martin, do you
14 have a response to what Mr. Leibowitz is saying?

15 MS. MEAD: Yes. Although we dispute whether the
16 changes to the plans made that were filed on March 17th were
17 substantial compared to the ones filed with the original
18 application in early September, the applicant felt that they
19 were significant and addressed the Planning Board's comments
20 in December, which were based on the Special Exception as a
21 whole. The Planning Staff and Planning Board's revised
22 comments were mainly based on the remaining issues in the
23 Planning Board's January written recommendation regarding
24 the size and scale and the 500 square feet per child, but
25 they were not specific. They just said it was too big,

1 which we had felt we had addressed, particularly given this
2 particular Master Plan language. But again, instead of
3 going through the legal arguments of that, the applicant has
4 proffered to reduce the enrollment further and look at the
5 size and scale of the building now that we have some
6 guidance from Planning Staff and the Planning Board. It's
7 not a reiteration of the feedback we got in December
8 regarding that this Special Exception use, in and of itself,
9 was consistent with the Master Plan but the size and scale
10 was not, so we would like to address that issue further.

11 We do think it is an issue that the staff is not
12 here and we don't have the Planning Board's written opinion.
13 It is after our case in chief. It is prejudicial to the
14 applicant if we cannot have them here before hearing
15 testimony that's going to be speaking to those comments as
16 well as their own.

17 MS. ROBESON: Well, we rarely have Technical Staff
18 here.

19 MS. MEAD: But usually the Planning Board's
20 opinion is before the applicant's case in chief.

21 MS. ROBESON: Well, it's supposed to be five days
22 before but it's not infrequent that it doesn't work out that
23 way and we generally leave the record open.

24 MS. MEAD: Right.

25 MS. ROBESON: But I guess my question to you is do

1 you really think my -- I can understand Mr. Leibowitz's
2 concern that the first amendment before me was not
3 significant enough to address the concerns and so I see Mr.
4 Leibowitz's point, and I guess my question to you is,
5 because we don't want to have to -- what I think Mr.
6 Leibowitz is saying is, you don't want to have to put
7 everybody through this again.

8 MS. MEAD: Well, we would be happy to have a
9 prejudice as far as us amending again. The resources issue
10 is shared on both sides of the table but that doesn't mean
11 the applicant doesn't sort of deserve a chance to address
12 the comments. This isn't atypical of --

13 MS. ROBESON: Well, you've had two shots at the
14 comments so far, okay, so this is two shots --

15 MS. MEAD: The applicant has opposed the case from
16 before we even met with them so as far as addressing their
17 comments, we have changed the plans every single time we've
18 met with them. This is more as they oppose the use in
19 general so as far as addressing comments, the Planning Board
20 and the Planning Staff's comments that we've been striving
21 to address, and we didn't get the Planning Staff feedback
22 until after we filed on March 17th and after we were here
23 before you on April 15th, then we got their comments on the
24 plan, so it was too late for us, and during our case in
25 chief to make a motion then.

1 We certainly don't want this to be endless either
2 as far as amendments, the plan. We're hoping that we will
3 at least satisfy the Planning Board and the Planning Staff
4 comments on this plan and we think it would save the effort
5 of having to ask for a remand or reconsideration on such
6 issues later in the case and further drag it out and have
7 testimony on that part. I mean, all the people in the room
8 were able to make it on Thursday. They're able to make it
9 today. We postponed this three months based on other
10 people's schedules, I mean, that's typical for a heavily
11 opposed Special Exception case. We, again, feel it would be
12 prejudicial not to allow the applicant to be responsive in
13 this instance. Again, if it needs to be with prejudice not
14 to amend again or make substantial amendments again, that
15 would certainly be understandable.

16 MS. ROBESON: Mr. Leibowitz, is it your client's
17 position that they are going to oppose this no matter what
18 goes on the site?

19 MR. LEIBOWITZ: That's not our position and our
20 position is we can't take our position on a hypothetical
21 proposal.

22 MS. ROBESON: Okay.

23 MR. LEIBOWITZ: And not all the people in the room
24 were at the Planning Board on Thursday. Some of them were
25 and some of them were and some different people because

1 there's different people in the community who are concerned
2 who don't have the flexibility in their schedule to come and
3 testify.

4 MS. ROBESON: I understand. All right. And, Ms.
5 Mead, what do you foresee as far as involving the community?
6 If this motion is granted, what do you foresee as far as
7 involving the community in changes? Sounds to me, from what
8 I've heard so far in the case, it sounds to me like the
9 community is looking for something less intense, smaller.
10 So, were this granted, how do you foresee proceeding with
11 the community?

12 MS. MEAD: Well, we have not yet had the
13 opportunity to meet with the actual South Four Corners Civic
14 Association.

15 MS. ROBESON: I think you have another community
16 association --

17 MS. MEAD: And the Northwood Four Corners --

18 MS. ROBESON: Four Corners.

19 MS. MEAD: -- and the Woodmore Pine Crest, for
20 that matter, we'd be happy to meet with too since that was
21 the letter that I read into the record of the case in chief
22 as far as thinking it was going to be stone commercial and
23 not have any public hearing to change that. We'd be happy
24 to meet with all of them. The association had opposed the
25 case before we even met with some of them in one of the

1 neighbor's homes before applying and then we received
2 correspondence that they did not want to meet with us and
3 that they did not have time on the schedule. So, we would
4 like to actually meet with the association before they would
5 take a vote since we haven't had that opportunity.

6 From the correspondence and from previous
7 conversations, my understanding is then that the use in and
8 of itself would be opposed, that the residential preferred
9 use, and that anything would be opposed unless it was a
10 strict single-family residential use. We'd be happy if they
11 would be supportive of a reduce plan, that would be even
12 greater. We don't hold out such expectations but we would
13 like to at least minimize issues before the applicant puts
14 on their case in chief.

15 MS. ROBESON: Well, why would you say ahead of
16 time that you don't hold out those expectations that they
17 might agree --

18 MS. MEAD: Based on the testimony thus far and the
19 letters and conversations as far as opposing the use.

20 MS. ROBESON: So it's your belief that the
21 community will never approve something like this?

22 MS. MEAD: Oh, no, obviously we would hope that
23 they would and that's what we do as applicants --

24 MS. ROBESON: So why wouldn't you hold out
25 expectations for that?

1 MS. MEAD: Well, that's why we want to meet with
2 them. We would hope that they would but I don't want to put
3 any pressure on them as far as denying their right to come
4 here and continue to pose it whether it's 100 square feet or
5 6,000 square feet, as far as the building. But, I just
6 didn't want to jump to that we were assuming that we would
7 get their support --

8 MS. ROBESON: Okay.

9 MS. MEAD: -- if we revised it.

10 MS. ROBESON: Oh.

11 MS. MEAD: Obviously, that is always the hope and
12 that is why we go through such efforts and that's why we
13 voluntarily -- there's no community meetings required with
14 this process but we've certainly gone to lengths to do so
15 and try to educate on the process itself, but we certainly
16 didn't want to take away their prerogative if the use, in
17 and of itself, is always going to be something that the
18 association does not want. We would like to, at least,
19 minimize issues for a continued hearing and hopefully reduce
20 any antagonizing or cross-examination issues.

21 MS. ROBESON: Okay. Anything else, Mr. Leibowitz?

22 MR. LEIBOWITZ: No. I don't know where -- I get
23 the sense you're heading maybe towards postponement, and if
24 that's the case, I can certainly work with Ms. Mead and see
25 if we can get a meeting with her client and my client, but I

1 don't know where they're going to come down because, again,
2 we can't comment on a hypothetical proposal.

3 MS. ROBESON: And I understand the position you're
4 in. I guess my concern is if the postponement is granted, I
5 felt that the first set of amendments did not address the
6 concerns of Technical Staff or the Board and so what I'm --
7 I cannot force you to take, you know, certain concerns
8 seriously or not. I know you said that you didn't know
9 about the concerns and that may be, I don't know, but what I
10 would encourage you -- I am going to grant a postponement,
11 but I also understand Mr. Leibowitz's concerns that how many
12 times can we keep going through this process and I'm not
13 going to be inclined to grant another postponement request.

14 All I'm going to do today is -- generally when we
15 have a Motion to Amend, that occurs when you actually amend
16 the plan so I'm going to grant the postponement. I have to
17 go and call recess to talk to staff to see when the date
18 will be. So I'll go into recess just to do that.

19 I will be reluctant to grant another postponement.
20 So I certainly would suggest that you really listen to
21 Technical Staff and the Planning Board, you know. The other
22 issue, Mr. Leibowitz, is we don't have the Planning Board
23 decision so it's difficult to say, you know, whether or not
24 they're able to -- you know, if it was a recommendation that
25 said no way, no how, that would be one thing. I don't have

1 it in front of me so I just encourage you to work with
2 Technical Staff and the Board and the citizens because I
3 will be reluctant to grant another postponement based on
4 amendments, all right?

5 We're going to go into recess for ten minutes. I
6 need to go pull the dates that we have available. I do know
7 the first date was not until October. So, hopefully, that
8 will give you sufficient time.

9 MS. MEAD: I just wanted to ask. I haven't had a
10 chance to ask Mr. Leibowitz, but since the applicant is here
11 -- if you will recall, the one remaining item was the cross-
12 examination of Mr. Kay which I don't know if that would
13 change the revised plans. I will leave it up to Mr.
14 Leibowitz and the Hearing Examiner if you felt that that
15 was --

16 MS. ROBESON: I don't see --

17 MS. MEAD: -- something to do today or --

18 MS. ROBESON: I don't see any point in doing that
19 since you're going to have, hopefully, a much different
20 plan.

21 MS. MEAD: Okay.

22 MS. ROBESON: So I don't see any point in cross-
23 examining Mr. Kay, do you?

24 MR. LEIBOWITZ: No.

25 MS. ROBESON: Okay.

1 MR. LEIBOWITZ: If we're not going forward today
2 then I don't want to cross-examine him today.

3 MS. MEAD: Okay.

4 MS. ROBESON: Okay. I think that hopefully he
5 will be back to testify with something different. So with
6 that, I'm going to take a ten minute break and check dates
7 and then I'm going to announce the dates when we come back
8 so we don't have to issue brand new notice.

9 MS. MEAD: Okay, thank you.

10 MR. LEIBOWITZ: And then we'll just need a few
11 minutes to confer with my clients about --

12 MS. ROBESON: I'll get a couple of dates, all
13 right?

14 MR. LEIBOWITZ: Thank you.

15 MS. ROBESON: Okay. We'll go off the record now.
16 Thank you.

17 MS. MEAD: Thanks.

18 (Whereupon, at 10:14, a brief recess was taken.)

19 MS. ROBESON: Okay, we're back on the record. The
20 two dates that I have found are September 19th and November
21 10th which is a Thursday. November 10th is a Thursday so,
22 attorneys, if you have any Planning Board conflicts, we had
23 a situation the other day, please clear the Planning Board
24 on that date. So those are the two dates. Do either of you
25 -- Mr. Leibowitz, how do you feel?

1 MR. LEIBOWITZ: I think that they're both -- just
2 one moment, let me double check. They're both okay with us.
3 I don't know if the applicant will be ready by then.

4 MS. ROBESON: Okay.

5 MS. MEAD: By the first one, I do have concerns
6 with September 19th, just because although we may meet with
7 smaller groups ahead of time, just with the South Four
8 Corners regular scheduled meeting of the second Tuesday of
9 September, September 19th may be --

10 MS. ROBESON: Okay, too late.

11 MS. MEAD: -- pushing it.

12 MS. ROBESON: Yes, all right, then we will go to
13 November 10th. So all we're doing today is granting the
14 postponement request to November 10th with the understanding
15 that the applicant will file a amended petition after
16 consulting with the community and Technical Staff and we
17 will issue a notice of motion to amend at the time you
18 actually submit revised plans, all right?

19 MR. LEIBOWITZ: Okay. Is there a deadline by
20 which the applicant would have to submit the amended plan
21 because last time it was exactly 30 days before the hearing
22 and we were in a little bit of a --

23 MS. ROBESON: Disadvantage to --

24 MR. LEIBOWITZ: -- disadvantage --

25 MS. ROBESON: -- prepare?

1 MR. LEIBOWITZ: Yes.

2 MS. ROBESON: Is there a date by which you think
3 you could accomplish everything? I know that most citizen
4 associations don't meet in August.

5 MR. LEIBOWITZ: Right, we meet on odd number
6 months, the second Tuesday of each odd number month, so --

7 MR. KAY: Monday.

8 MR. LEIBOWITZ: Second Monday, I'm sorry, of
9 every --

10 MS. ROBESON: So the citizen's association
11 wouldn't be meeting until September.

12 MR. LEIBOWITZ: July.

13 MS. ROBESON: Or July.

14 MR. LEIBOWITZ: And then again September. We
15 could arrange a meeting of a smaller group but it wouldn't
16 be an official meeting of the association.

17 MS. MEAD: I still think it would be helpful. I'm
18 sorry, I didn't realize the 30 days wasn't sufficient last
19 time. We can certainly push for earlier in October, like
20 September, for our amended submission.

21 MS. ROBESON: All right, well, why don't you -- we
22 can set up a time line if you want to say what's a realistic
23 date for you to send Mr. Leibowitz.

24 MS. MEAD: Okay.

25 MS. ROBESON: And also Mr., I think it's Zepp?

1 MR. ZEPP: Yes.

2 MS. ROBESON: Oh, okay. Because their citizen's
3 association is a party to the case now also. So is October
4 1st a realistic deadline for you?

5 MR. LEIBOWITZ: Well, I --

6 MS. MEAD: That's Saturday.

7 MS. ROBESON: I'm sorry. Come forward and
8 identify yourself for the record, Mr. Zepp.

9 MR. ZEPP: I'm James Zepp. I represent --

10 MS. ROBESON: Okay, I didn't realize you were
11 here, come forward. Can you give your address and if you're
12 representing an entity, state who you're representing?

13 MR. ZEPP: My name is James H. Zepp. I live at
14 10602 Lockridge Drive, Silver Spring, and I'm representing
15 the Northwood Four Corners Civic Association and I'm also a
16 former member of the Citizen Advisory Board for the Four
17 Corners Master Plan.

18 MS. ROBESON: All right. Good, thank you for
19 coming.

20 MR. ZEPP: Okay, thank you.

21 MS. ROBESON: Do you have any input on the dates
22 or the time line?

23 MR. ZEPP: Well, I just got -- if the applicant
24 intends to meet with the Northwood Four Corners Civic
25 Association, our meeting in that time frame would be

1 Wednesday, October 12th and if we have something on the
2 agenda, it has to go to our newsletter which we would need
3 by the end of September.

4 MS. ROBESON: Okay. All right, do you have any
5 specific dates or does your client have any specific
6 deadlines that have to be met?

7 MR. LEIBOWITZ: In order to get on the agenda, I
8 don't think that there are any specific deadlines other
9 than, you know, probably a week before we could get the
10 applicant on the agenda. Hopefully we can arrange it well
11 before then.

12 MS. ROBESON: So when in September, Ms. Mead, do
13 you think you can submit revised plans? Or, we could do
14 this, we could say, well, by the second week in September.
15 Is that enough time for you to do the revised plans?

16 MS. MEAD: I would like to meet with South Four
17 Corners before the official filing --

18 MS. ROBESON: That's fine.

19 MS. MEAD: -- of the plans, I mean, we'll probably
20 meet with them informally before their meeting regardless,
21 but I was looking about six weeks before hand would be
22 September 26th which is two weeks after South Four Corners
23 meeting. So, we would send them to Northwood as well when
24 we file but they may not --

25 MS. ROBESON: Well, are you going to meet with

1 Northwood before you file as well?

2 MS. MEAD: Well, if they're not meeting until
3 October 12th, if that's their next meeting, if they don't
4 have anything in September, yeah, then no. We can have Mr.
5 Zepp, if he's willing to meet with us --

6 MS. ROBESON: In an informal meeting?

7 MS. MEAD: Yes.

8 MS. ROBESON: Okay. So --

9 MS. MEAD: But I think September 26th --

10 MS. ROBESON: For formal submissions?

11 MS. MEAD: -- for formal submission.

12 MR. LEIBOWITZ: September 26th?

13 MS. ROBESON: Okay, anything else while we're
14 here?

15 MR. LEIBOWITZ: Just one last thing. Ms. Mead had
16 made some representations earlier about what the Planning
17 Board had determined in regards to the applicants
18 conformance with the Master Plan and the Planning Board will
19 submit its report and recommendations and they'll speak for
20 themselves but we take issue with some of her --

21 MS. ROBESON: Her characterizations?

22 MR. LEIBOWITZ: -- her characterization.

23 MS. ROBESON: I realize that when I asked the
24 question that it could be turned into a slippery slope so we
25 will let the Planning Board speak for themselves and their

1 document will be in the record of this case that's available
2 for review from this office. So --

3 MS. MEAD: I apologize. I was trying to be
4 objective about items.

5 MS. ROBESON: Yeah.

6 MS. MEAD: I probably had a little too much
7 (indiscernible).

8 MS. ROBESON: So point taken, all right. With
9 that, anything else? Okay, with that, we are going to
10 continue this case to November 10, 2011 at 9:30 a.m. and we
11 are going to have the applicant submit revised plans by
12 September 26, 2011, all right?

13 MS. MEAD: Okay, thank you.

14 MR. LEIBOWITZ: Thank you.

15 MS. ROBESON: Okay, with that, we'll go off the
16 record. Thank you.

17 (Whereupon, at 10:35 a.m., the proceedings were
18 concluded.)

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C E R T I F I C A T E

DEPOSITION SERVICES, INC., hereby certifies that
the attached pages represent an accurate transcript of the
electronic sound recording of the proceedings before the
Office of Zoning and Administrative Hearings for Montgomery
County in the matter of:

Petition of Gilmoure-Brunett, LLC

Special Exception No. S-2781

OZAH No.

By:



Candace L. Cornette, Transcriber